

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
PECOS DIVISION**

KENNETH CRAIN, Individually and For
Others Similarly Situated,

Plaintiff,

v.

BERGAILA & ASSOCIATES, INC.,

Defendants.

Case No. 4:20-cv-00008

COLLECTIVE ACTION PURSUANT
TO 29 U.S.C. § 216(b)

JURY TRIAL DEMANDED

JOINT MOTION TO EXTEND STAY AND FOR EQUITABLE TOLLING

Pursuant to Federal Rule of Civil Procedure 1 and the Court's equitable power to control its docket, Kenneth Crain ("Crain"), individually and on behalf of himself and those similarly situated, and Defendant Bergaila & Associates, Inc. ("Bergaila") (together, "the Parties") jointly move to extend the stay entered by this Court on April 29, 2020 case for an additional 60 days to allow the Parties to continue to work together in a good-faith effort to resolve this case. The Parties also request the Court continue to equitably toll the putative collective members' respective statutes of limitations from the date the Court grants the Parties' instant Motion through the expiration of the requested stay.

1. Plaintiff filed his Complaint on February 4, 2020. ECF No. 1. Defendant answered on March 2, 2020. ECF No. 8.

2. On April 22, 2020, the Parties filed their Joint Motion to Stay Proceedings & Deadlines and for Equitable Tolling, so that the Parties could engage in early settlement discussions. ECF No. 11. The Court granted that motion on April 29, 2020 and stayed the case for 60 days. ECF No. 14.

3. The Parties have exchanged the data they previously agreed to exchange and they have exchanged settlement proposals as contemplated by the original motion for stay. *See* ECF No. 11 at 1–2. The Parties are now working to schedule mediation to continue their good-faith discussions.

4. The Parties request the Court continue to stay all proceedings and deadlines in this case. The Parties’ proposed stay will conserve the Parties’ resources and serve judicial economy while they work towards a potential resolution of this matter. *See* FED. R. CIV. P. 1 (indicating the rules “should be construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding”).

5. The Parties also request the Court continue to stay the putative collective members’ respective statutes of limitations pending the additional 60-day requested stay while the Parties engage in mediation and further informal resolution discussions.

WHEREFORE, the Parties respectfully ask the Court to grant their Joint Motion, stay this case for an additional 60 days to allow the Parties to attempt to informally resolve this matter in good faith, and to toll the putative collective members’ respective statutes of limitation.

RESPECTFULLY SUBMITTED AND AGREED TO BY:

Dated: June 29, 2020

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**ATTORNEYS FOR PLAINTIFF
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Dated: June 29, 2020

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**ATTORNEYS FOR DEFENDANT
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CERTIFICATE OF SERVICE

I hereby certify that on June 29, 2020, I served the foregoing on all parties and/or their counsel of record via the Court's CM/ECF filing system in accordance with the Federal Rules of Civil Procedure.

/s/ Nicole S. LeFave

Nicole S. LeFave

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